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Chairperson Berceau and Members of the Committee on Urban and Local Affairs:

I am here today to speak in favor of Assembly Bill 490, which expands the ability of municipalities to abate nuisances through the receivership process.

Under current law, nuisances include: bawdyhouses, drug houses, criminal gang houses, places of gambling and dilapidated buildings. Municipalities have two primary ways to deal with these problems, through municipal fines and forfeitures or through condemnation. While both procedures can have their time and place, often they are not effective in actually abating a nuisance in a timely and cost effective manner.

The first step in dealing with a nuisance property is to contact the property owner and ask them to rectify the problem. I would like to state that the vast majority of landlords in this state are responsible members of the community who do a good job in maintaining their property. If speaking with the property owner does not solve the problem, the next step is usually to issue a fine. This often works with landlords who have fairly minor problems in need of correction. Often a fine is more than enough to deal with any problem that may arise.

However, there are some landlords who view fines as simply part of the cost of doing business. These landlords will either pay the fine without correcting the problem or, if the fine is particularly steep, fight it in municipal and circuit court. Many of these landlords live out of town or even out of state and have no attachment to the community in which their property is located. The fine process is not able to properly deal with landlords of this type.

The other approach the city may take is the condemnation of the nuisance property. By this process the city actually takes ownership of the nuisance property. There are several problems associated with condemnation. First, is the length of the process. Condemnations are carefully regulated by state statute and are quite time consuming. This is done for good reason, as proper safeguards need to be in place to protect property owners from the unreasonable demands of the government. However, these safeguards do no good for the people negatively impacted by the nuisance. Second, is the cost of condemnation. The property must be purchased at fair market value; this can often get into the millions of dollars. Related to this is the notion that the city is, in effect, rewarding the property owner by paying them to stop being a nuisance.

There is a third option under the statutes, however. This is the use of receivership authority under chapter 823.23. Under this statute, the municipality may apply to a circuit court appoint a receiver to abate the nuisance at the property. A receiver may be a housing, community development, or redevelopment authority or a non-profit corporation that specializes in nuisance abatement. The receiver effectively becomes the new landlord and works under the supervision of the circuit court to abate the nuisance. Once the nuisance is abated, control of the property is returned to the owner. Unfortunately, this authority is reserved for 1st and 2nd class cities.

AB 490 expands receivership authority under chapter 823.23 to all municipalities. When the process was first introduced, it may have made sense to limit the authority to 1st and 2nd class cities. I believe this is no longer the case. Crime does not recognize municipal boundaries. We need to give our local officials the tools they need to combat public nuisances.

Thank you for allowing me to testify in favor of AB 490.